

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Qualcomm Incorporated)	RM WT 05-7
)	
Petition for Declaratory Ruling that)	
OET-69 is Acceptable to Demonstrate)	
Compliance with Section 27.60)	

**CORR WIRELESS COMMUNICATIONS, LLC=S
COMMENTS IN SUPPORT OF DECLARATORY RULING**

Corr Wireless Communications, LLC (ACorr@) submits these comments in support of the request for declaratory ruling filed by Qualcomm Incorporated (AQualcomm@). Corr is a lower band 700 MHz licensee. Although Corr does not plan the particular type of nationwide roll-out of video-related services as Qualcomm, Corr is exploring a number of service options for the distribution of broadband services over its channel 54 and 59 spectrum. The best option will become clearer as service tests by other licensees progress and the results are evaluated. A major obstacle to Corr=s ability to put this important resource to work is the continued presence in the band of analog broadcast stations who it had anticipated would be vacating their channels in the mid-2000=s. Instead, there remain several adjacent or co-channel stations whose continued operations will impede the development of innovative broadband services in this band unless measures are adopted to minimize the impact of persistent operations by analog TV broadcasters. As the years since the completion of lower 700 MHz band auctions 44 and 49 increase, the unfairness to bidders who have paid millions of dollars for that spectrum but are unable to use it also increases.

I. Corr recognizes, as it must, the obligation to protect these stations from interference. However, as Qualcomm and others have pointed out, many lower 700 MHz band operations could proceed more quickly if the terms of acceptable interference and the methods of demonstrating compliance with those terms are clarified. Qualcomm advances three useful concepts in furthering that goal. First, Qualcomm suggests that the Longley-Rice interference prediction methodology be recognized as an appropriate methodology for assessing interference potential in this context. The OET-69 model is one which is generally accepted as producing more accurate predictions of interference because of its accounting for more real world propagation factors and doing so with greater precision than the FCC contours. Corr cannot at this time subscribe to the exclusive use of this methodology for predicting interference by and to 700 MHz operators, particularly since the specific applications of the service are yet to be decided. For example, it is unclear how useful this particular method would be in predicting interference between Qualcomm's Channel 55 operations and operations on Channel 54 by other 700 MHz licensees B operations which may be two way in nature. As we understand it, however, Qualcomm is not seeking the OET-69 method to be declared the exclusive tool to be employed; it is just asking that it be recognized as one tool which may be used. That request seems unobjectionable and will eliminate any future controversies about the propriety of one particular method of assessing interference.

II. Second, Qualcomm suggests that the 2% *de minimis* standard applied by the Commission in evaluating other aspects of the DTV transition be applied here as well. The Commission has already decided that an adverse impact affecting less than

2% of an existing station's service population is so minor that it should not hinder the deployment of DTV stations which are trying to improve coverage. This common sense acceptance of a small theoretical negative impact on a relatively few households has been very beneficial in permitting stations to propose DTV parameters that maximize service to the greatest number of people. Without this *de minimis* safety valve, many optimal DTV deployments in major metropolitan areas would be blocked. The Commission has here recognized that the principle of "the greatest good for the greatest number" sometimes implies that there may be some harm to a small number. The 2% *de minimis* threshold represents a sensible balancing of those benefits and detriments. There is no reason why that same threshold should not be applied in this context as well. We assume, of course, that any adverse consequences from lower 700 MHz operations accepted under the 2% standard would be added into any other adverse consequences experienced by a protected station to assure that no more than 10% of a station's population experienced interference from multiple sources.¹

Corr believes that Qualcomm's suggestion could be taken one step further by eliminating from interference consideration any households who receive the protected TV station via cable TV or satellite. The burden would be upon the 700 MHz operator to show that households are so served, but assuming that is the case, there is no reason to bar a useful service from going into operation by protecting a station from interference where no interference is actually being experienced by the consumer. In

¹ *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 13 FCC Rcd. 1418 (1998).

other words, in pockets to which theoretical interference to a protected station is predicted, households within the predicted interference zone who subscribe to cable or satellite service with carriage of the protected station would not be counted in arriving at the 2% threshold. This tweak in the use of the 2% *de minimis* threshold should further open up the possibilities for wider distribution of 700 MHz services.

III. Third, Corr strongly endorses Qualcomm=s suggestion that a streamlined procedure be adopted for routinely processing non-interference showings by 700 MHz licensees. The rules as adopted for this service leave considerable confusion about what regulatory hoops must be jumped through before a 700 MHz licensee can actually begin operations. Section 27.60(b)(1) indicates that a licensee may demonstrate non-interference by any of the four enumerated methods which follow, Asubject to Commission approval.@ That last *proviso* seems to imply that every installation or every operation planned by a 700 MHz licensee must receive some form of FCC Aapproval@ before the licensee can proceed. Obviously, a regulatory approach which entails site by site pre-approval by the Commission will be hopelessly unwieldy. This regulatory model has been abandoned by the Commission in all geographically licensed services to universal acclaim. By simply setting interference standards at the geographic and electromagnetic boundaries of a license, licensees in services like PCS, cellular, and LMDS have been able to move forward with operational deployments without the need to involve the Commission in site by site licensing. This has not only saved the Commission=s resources, but it has also has sped service considerably by eliminating a frequent source of delay. It also permits licensees to have much greater

flexibility to respond quickly to changing market conditions without having to go back to the Commission for new authorizations.

All of the benefits of geographic area licensing are effectively lost if the Commission must review and approve each proposed operation on a case by case basis. It is entirely conceivable that entrenched TV licensees would simply take the opportunity to protest every proposed 700 MHz operation. Even meritless protests could easily delay the institution of service for three, four or five years B long enough for the DTV transition to be complete and also to defeat the entire purpose of letting 700 MHz licensees go into operation, if feasible, before that final transition date.

It is therefore important that the Commission clarify that no additional Commission pre-operational approval is required if a 700 MHz licensee is meeting the TV/DTV protection methods listed in 27.60(b)(1)(i), (ii) and (iv). Each of those methods is relatively cut and dried and requires no further involvement by the Commission. (For example, section (iv) provides for concurrence by the affected TV station with the proposed operation. In that circumstance, why should any involvement by the Commission to Aapprove@ the arrangement be required at all?) The 700 MHz licensee should simply file the showing or concurrence but no action by the FCC should then be required prior to the initiation of service.

Where the 700 MHz licensee is making a showing under section (iii), some Commission involvement is necessary to assess whether adequate protection is being provided to the affected TV station. In that circumstance the streamlined procedures suggested by Qualcomm will serve to expedite the movement of the application

through the Commission, to quickly identify any valid objections to the proposal, and to get a prompt resolution.

CONCLUSION

For the reasons set forth above, Corr supports the declaratory ruling sought by Qualcomm with the modifications outlined above, and suggests that these principles should apply to all lower band 700 MHz licensees, not just Qualcomm=s nationwide channel.

Respectfully submitted,

Corr Wireless Communications, LLC

By _____

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March 8 , 2005